

STATEMENT BY THE INDEPENDENT MEDICO-LEGAL UNIT (IMLU) ON TORTURE, EXTRA JUDICIAL KILLING AND ARBITRARY ARREST



Independent Medico-Legal Unit

A World Free From Torture, Violence and Discrimination

THE LEGISLATIVE FRAMEWORK

1. Issues since the 2nd cycle review of the UPR
 - Lack of Implementation of the Prevention of Torture Act and the National Coroner's Service Act
 - Kenya has not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
 - the International Convention for the Protection of All Persons from Enforced Disappearance .
 - the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Recommendations

- a) Full implementation of the National Coroners Service Act 2017 and the Prevention of Torture Act 2017 and develop a monitoring and evaluation tool to assess the progress of implementation.
- b) The state to invest in immediate capacity building for actors in the administration of justice sector, including security and law enforcement officials, Judicial officers, prison officials, prosecutors, among others.
- c) Ratify of the Second Optional Protocol to the International Covenant on Civil and Political Rights.
- d) Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- e) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

2. JUSTICE AND ACCOUNTABILITY

- ▶ IMLU documented 98 cases of extra judicial killings, 18 cases of enforced disappearances and 269 cases of torture with the highest perpetrators being the police officers.
- ▶ . 24 of these cases had clear evidence of torture but the state has been slow to complete investigations and press charges against the perpetrators.
- ▶ the absence of comprehensive data encourages the use of anecdotal evidence of violations.

RECOMMENDATIONS

- Ensure publication of outcomes of investigations to allow for public oversight and avoid impunity.
- An official statutory database should be established and managed on behalf of relevant agencies for synthesizing and administering investigation, prosecution and conviction data.

LACK OF EFFECTIVE REDRESS MECHANISMS FOR VICTIMS OF TORTURE, EXTRA JUDICIAL KILLINGS AND ENFORCED DISAPPEARANCE

- The government is slow in complying with court orders requiring compensation of survivors of torture, EJE and Enforced Disappearance defeating the principle of access to justice.
- The government is also not offering rehabilitative services including medical and physiological services to victims of torture, extra judicial killings and enforced disappearance and most victims are forced to either pay for private services or depend on civil society.

RECCOMENDATIONS

- Appropriate budget allocation to ensure that the government can provide redress to victims of torture, extra judicial killings and enforced disappearance.
- Prompt and effective disbursement of the compensation funds to the survivors of torture, extra judicial killings and enforced disappearance.
- The speedy development of regulations under the Prevention of Torture Act 2017 using a consultative process, to ensure that the victims of torture and ill treatment can access rehabilitation services at no cost as the costs will be charged to the victim protection fund.